

Town of Cortlandville

Ordinance No. XIX 178.123.3

[*Effective Date/Date Enacted*]

An Ordinance to amend the Zoning Ordinance of Cortlandville by modifying *Article I/Section 178.2- Definitions*, adding definitions for solar photovoltaic systems and by amending *Article XIX/Section 178.123.3- Supplemental Regulations and Exceptions, Solar Energy Systems*, incorporating new sections to permit certain solar energy systems as accessory uses in any zoning district and by revising *Article XIV/Section 178.73-77- Conditional Permit*, adding provisions for the permitting of certain solar photovoltaic systems.

This Zoning for Solar Energy Law is adopted pursuant to sections 261-264 of York Town Law, of the State of New York, which authorize the Town of Cortlandville to adopt zoning provisions that advance and protect the health, safety, and welfare of the community.

BE IT HEREBY ENACTED AND ORDAINED by the Town Board of Town of Cortlandville, Cortland County, New York, that the Town of Cortlandville Zoning Ordinance shall be amended in the following respects:

A. Intent

This section regulates and promote the safe, effective and efficient use of installed solar energy systems in order to encourage the renewable energy systems and a sustainable life style, while protecting the health, safety and welfare and minimize the adverse impact on the adjacent and surrounding neighboring properties.

B. Definitions

Array: Any number of electrically connected photovoltaic (PV) modules providing a single electrical output.

Building-Integrated System: A solar photovoltaic system that is constructed as an integral part of a principal or accessory building or structure and where the building-integrated system features maintain a uniform profile or surface of vertical walls, window openings, and roofing. Such a system is used in lieu of a separate mechanical device, replacing or substituting for an architectural or structural component of the building or structure that appends or interrupts the uniform surfaces of walls, window openings and roofing. A building-integrated system may occur within vertical facades, replacing view glass, spandrel glass or other façade material; into semitransparent skylight systems; into roofing systems, replacing traditional roofing materials; or other building or structure envelope systems.

Building-Mounted System: A solar photovoltaic system attached to any part or type of roof on a building or structure that has an occupancy permit on file with the Town of Cortlandville and that is either the principal structure or an accessory structure on a recorded lot. This system also includes any solar-based architectural elements.

Drip line: The outermost edge of a roof including eaves, overhangs and gutters.

Farmland of Local Importance: A land that has been identified by the local agency or agencies as farmlands for the production of food, feed, fiber, forage, and oilseed crops, even though these lands are not identified as having national or statewide importance. Farmlands of local importance may include tracts of land that have been designated for agriculture by local ordinance.

Farmland of Statewide Importance: A land, in addition to prime and unique farmlands, that is of statewide importance for the production of food, feed, fiber, forage, and oil seed crops as determined by the appropriate state agency or agencies. Farmlands of statewide importance may include tracts of land that have been designated for agriculture by state law.

Ground-Mounted System: A solar photovoltaic system mounted on a structure, pole or series of poles constructed specifically to support the photovoltaic system and not attached to any other structure, and the primary purpose of producing electricity or thermal energy for onsite or offsite use.

Interconnection: The technical and practical link between the solar generator and the grid providing electricity to the greater community.

Kilowatt (kW): A unit of electrical power equal to 1,000 Watts, which constitutes the basic unit of electrical demand. A watt is a metric measurement of power (not energy) and is the rate (not the duration) at which electricity is used. 1,000 kW is equal to 1 megawatt (MW).

Large Solar Energy System: A Solar Energy System that is primarily for the purpose of onsite or offsite sale or electricity consumption, and is larger than three thousand (3,000) square feet in area of solar collectors (measuring the equipment surface area) per lot. This system may be ground- mounted or building-mounted.

Module: A module is the smallest protected assembly of interconnected PV cells.

Net Metering Agreement: An agreement with a local electric utility that allows customers to receive a credit for surplus electricity generated by certain renewable energy systems.

Prime farmland: A land designated by the U.S. Department of Agriculture as land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

Qualified Solar Installer: A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition.

Remote Net Metering: Allows solar photovoltaic owner generators to apply excess generation credits from the generator system (“Host Account”) to other meters on property that is owned or leased by the same customer and are within the same load zone as the generator (“Satellites”).

Rooftop or Building Mounted System: A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

Small Solar Energy System: A solar photovoltaic energy systems up to and including 3000SF (measuring the equipment surface area) and the principal purpose of which is to provide electrical power to be consumed on site or to provide power to be shared with other power customers (which may include both physical and virtual aggregation).

Solar-based Architectural Element: Structural/architectural element that provides protection from weather that includes awnings, canopies, porches or sunshades and that is constructed with the primary covering consisting of solar PV modules, and may or may not include additional solar PV related equipment.

Solar Photovoltaic (PV) Related Equipment: Items including a solar photovoltaic cell, panel or array, lines, mounting brackets, framing and foundations used for or intended to be used for collection of solar energy.

Solar collector: A photovoltaic cell, panel or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

Solar Easement: A document recorded pursuant to NYS Real Property Law 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a Solar Energy System.

Solar Energy Applicant: Any person, firm, corporation or any other entity submitting an application to the Town of Cortlandville for a Solar Energy System.

Solar Energy Equipment: Solar collectors, controls, inverters, energy storage devices, and other materials and hardware, associated with the production of electrical or thermal energy from solar radiation.

Solar Energy System: An electrical or thermal energy generating system composed of Solar Collectors, Solar Thermal Systems, and/or Solar Energy Equipment.

Solar Panel: A photovoltaic device capable of collecting and converting solar energy into electrical energy.

Solar Thermal System: A system in which water or other liquid is directly heated by the sunlight. The heated liquid is then used for purposes such as space heating and cooling, domestic hot water and the heating of swimming pools.

Tracking System: A number of photovoltaic modules mounted such that they track the movement of the sun across the sky to maximize energy production, either with a single-axis or dual-axis mechanism.

C. Applicability

1. This Ordinance applies to all building-mounted and ground-mounted systems installed and constructed after the effective date of the Ordinance.
2. Solar Energy systems constructed prior to the effective date of this Ordinance are not required to meet the requirements of this Ordinance.
3. Any upgrade, modification or structural change that alters the size or placement of an existing solar energy system shall comply with the provisions of this Ordinance.
4. The installation of any Solar Energy System does not carry with it a right to a clear line of sight to the sun. It shall be the responsibility of the Applicant, installer, or developer to gain any and all solar easements or agreements to maintain a line of sight to the sun if necessary.
5. The substantive requirements and standards for Large Solar Energy Systems set forth in this Ordinance are intended to apply to all projects with more than three thousand (3,000) square feet in area of solar collectors, including large projects subject to the siting authority of the New York State Board on Electric Siting and the Environment pursuant to Article 10 of the New York State Public Service Law.

D. Permitted Locations

No solar energy system or device shall be installed or operated in the Town of Cortlandville except in compliance with this article.

1. Building-Mounted Solar Energy Systems
 - a. Building-Mounted Solar Energy Systems (large or small scale) are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.
 - b. Height. Solar Energy Systems shall not exceed the maximum height restrictions of the Zoning district within which they are located and are provided the same height exemptions that apply to building-mounted mechanical devices or equipment.
 - c. All Building-Mounted Solar Energy Systems shall be exempt from the requirement for a Conditional Permit, unless such Building-Mounted system increases the overall height of the structure by six (6) feet or more.
 - d. All owners of Building-Mounted Solar Energy Systems must file a building permit application with the Building Department, and obtain a valid building permit, prior to starting their installation.
2. Ground-Mounted Small -Scale Solar Energy Systems
 - a. Ground-Mounted Small-Scale Solar Energy Systems shall not be located in the following areas, unless otherwise approved by the Planning Board in conjunction with a Conditional Permit provided in Article XIV/Section 178.73-77.
 - i. Prime farmland soils as identified by the United States Department of Agriculture-Natural Resources Conservation Service (USDA-NRCS) or alternative available resource.

- ii. Areas of potential environmental sensitivity, such as Unique Natural Areas as designated by the Cortland County Soil and Water Conservation District, flood plains, historic sites, airports, state-owned lands, conservation easements, trails, parkland, prime soils, and wetlands as identified by Cortland County Planning Department mapping services, the New York State Department of Environmental Conservation, or the United States Army Corps of Engineers
 - iii. Development is prohibited on slopes of greater than fifteen percent (15%) unless the Solar Energy Applicant can demonstrate through engineering studies and to the satisfaction of the Town that the proposed development will cause no adverse environmental impact that will not be satisfactorily mitigated.
 - iv. Placement within the front yards of residential lots, if any above-ground portion of the system is within 100 feet of a Public Highway right-of-way.
 - b. Ground-Mounted Small-Scale Solar Energy Systems are permitted as principal and accessory structures in all zoning districts and shall adhere to the following:
 - i. Lot Coverage. The horizontal surface area covered by ground-mounted solar collectors shall be included in total lot coverage and when combined with the coverage of other structures, the total area shall not exceed the maximum lot coverage as permitted in the underlying zoning district.
 - c. Except as provided in subsection 2.a above, Ground-Mounted Small-Scale Solar Energy Systems shall be exempt from the requirement for a Conditional Permit.
- 3. Ground-Mounted Large-Scale Solar Energy Systems;
 - a. Ground-Mounted Large-Scale Solar Energy Systems are permitted as principal and accessory uses through the issuance of a Conditional Permit within Agriculture and Industrial Zoning Districts, subject to the requirements set forth in this section.
 - i. Ground-Mounted Large-Scale Solar Energy Systems that produce electricity or thermal energy primarily for active farming or agricultural uses, where the generation is less than one hundred and ten percent (110%) of the farm use, shall be exempt from the requirement to obtain a Conditional Permit.
 - b. Ground-Mounted Large-Scale Solar Energy Systems shall not be located in the following areas unless otherwise approved by the Town Planning Board in conjunction with the Conditional Permit approval process.
 - i. Prime farmland soils as identified by the USDA-NRCS or alternative available resource.
 - ii. Areas of potential environmental sensitivity, including Unique Natural Areas, flood plains, historic sites, state-owned lands, conservation easements, trails, parkland, prime soils, and wetlands as identified by Cortland County Planning Department mapping services, the New York State Department of Environmental Conservation, or the United States Army Corps of Engineers.
 - iii. On slopes of greater than fifteen percent (15%), unless the Solar Energy Applicant can demonstrate through engineering studies and to the satisfaction of the Town that the proposed development will cause no adverse environmental impact that will not be satisfactorily mitigated.
 - c. No Conditional Permit or renewal thereof or amendment of a current Conditional Permit relating to a Ground-Mounted Large-Scale Solar Energy System shall be

granted by the Town Planning Board unless the Solar Energy Applicant demonstrates that such Ground-Mounted Large-Scale Solar Energy System:

- i. Conforms to all federal and state laws and all applicable rules and regulations promulgated by any federal or state agencies having jurisdiction.
- ii. Is designed and constructed in a manner which minimizes visual impact to the extent practical.
- iii. Complies with all other requirements of the Town of Cortlandville Zoning Law.
- iv. Conforms to all adopted plans of the Town of Cortlandville.
- v. Complies with a fifty-foot (50) front yard, rear yard, and side yard setback.
- vi. Does not exceed twenty (20) feet in height.
- vii. Has a solar collector surface area (as measured in the horizontal plane) that, when combined with the coverage of other structures on the lot, does not exceed twice the maximum lot coverage as permitted in the underlying zoning district.

E. Conditional Use Design and Installation Standards

1. Appearance and Buffering:

- a. The Ground-Mounted Large-Scale Solar Energy System shall have the least visual effect practical on the environment, as determined by the Town Planning Board. Based on site specific conditions, including topography, adjacent structures, and roadways, reasonable efforts shall be made to minimize visual impacts by preserving natural vegetation, and providing landscape screening to abutting residential properties and roads, but screening should minimize the shading of solar collectors.
- b. Any exterior lighting installed shall have the least visual effect practical on the contiguous properties and shall be approved by the Town Planning Board.
- c. The Town Planning Board may require additional information, such as line-of-sight drawings, detailed elevation maps, visual simulations, before and after renderings, and alternate designs to more clearly identify adverse impacts for the purpose of their mitigation.
- d. Equipment and vehicles not used in direct support, renovations, additions or repair of any Ground-Mounted Large-Scale Solar Energy System shall not be stored or parked on the facility site.

2. Access and Parking:

- a. Ground-Mounted Large-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's name and emergency contact information shall be placed on any access point to the system and on the perimeter of the fencing. The fencing and the system shall be further screened by any landscaping or decorative fencing needed to avoid adverse aesthetic impacts as approved by the Town Planning Board.
- b. Motion-activated or staff-activated security lighting around the equipment area of a Ground-Mounted Large-Scale Solar Energy System or accessory structure entrance may be installed provided that such lighting does not project off the site. Such lighting should only be activated when the area within the fenced perimeters has been entered.

- c. A locked gate at the intersection of the access way and a public road may be required to obstruct entry by unauthorized vehicles. Such gate must be located entirely upon the lot and not on the public right-of-way.
3. **Engineering and Maintenance:**
 - a. Every Solar Energy System shall be built, operated and maintained to acceptable industry standards, including but not limited to the most recent, applicable standards of the Institute of Electric and Electronic Engineers (“IEEE”) and the American National Standards Institute (“ANSI”).
 - b. The Town, at the expense of the Solar Energy Applicant, may employ its own consultant(s) to examine the application and related documentation and make recommendations as to whether the criteria for granting the Conditional Permit have been met, including whether the Applicant’s conclusions regarding safety analysis, visual analysis, structural inspection, and storm water management aspects are valid and supported by generally accepted and reliable engineering and technical data and standards.

F. Special Provision

The Town Planning Board may impose conditions on its approval of any Conditional Permit under this section in order to enforce the standards referred to in this section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).

G. Height and Setback Restrictions

1. Building-mounted systems shall not exceed height limitations of the zoning district:
 - a. System installed on a pitched roof that faces the front yard of a property, the system must be installed at the same angle as the roof on which it is installed with a maximum distance, measured perpendicular to the roof, of eighteen (18) inches between the roof and edge or surface of the system.
 - b. System installed on a sloped roof, the highest point of the system shall not exceed the highest point of the roof to which it is attached.
 - c. System installed on a flat roof, the highest point of the system shall be permitted to extend up to six (6) feet above the roof to which it is attached.
2. Ground-mounted systems may not exceed the permitted height of accessory structures in the zoning district where the solar energy system is to be installed or 20 feet from the ground, whichever is less.
3. Setback for Ground-mounted Systems as a primary use or accessory use are subject to setback requirements in the zoning district in which the system is to be constructed.
 - a. The required setbacks are measured from the Property line to the nearest part of the system. No part of the ground-mounted system shall extend into the required setbacks due to a tracking system or other adjustment of solar energy related equipment or parts.

H. Non-conformance

1. Building-mounted systems:
 - a. If a building-mounted system is to be installed on any building or structure that is non-conforming because its height violates the height restrictions of the zoning district in which it is located, the building-mounted system shall be permitted, so

long as the building-mounted system does not extend above the peak or highest point of the roof to which it is mounted and so long as it complies with the other provisions of this Ordinance.

- b. If a building-mounted system is to be installed on a building or structure on a non-conforming property that does not meet the minimum setbacks required and/or exceeds the lot coverage limits for the zoning district in which it is located, a building-mounted system shall be permitted, so long as there is no expansion of any setback or lot coverage non-conformity and so long as it complies with the other provisions of this Ordinance.
2. Ground-mounted systems:
 - a. If a ground-mounted system is to be installed on a property containing a structure that is non-conforming because the required minimum setbacks are exceeded, the proposed system shall be permitted so long as the system does not encroach into the established setback for the property.
 - b. If a ground-mounted system is to be installed on a property that is non-conforming because it violates zoning district requirements other than setbacks, then a Conditional Permit must be obtained for the proposed installation.

I. Signage and/or Graphic Content

1. No signage or graphic content may be displayed on the solar PV system except the manufacturer's badge, safety information and equipment specification information. Said information shall be depicted within an area no more than thirty-six (36) square inches in size.
2. Disconnect and other emergency shutoff information will be clearly displayed on a light reflective surface.
3. 24 hour emergency contact information will be clearly displayed.
4. Systems and sites may not be used for displaying advertising except for reasonable identification of the owner/operator and shall comply with all signage restrictions.

J. Right of Inspection

1. In order to verify that the Solar Energy System's owners and any and all lessees, renters and/or operators of the Solar Energy System place, construct, modify and maintain such Systems, including solar collectors and solar inverters, in accordance with all applicable technical, safety, fire, building and zoning codes, laws, ordinances and regulations and other applicable requirements, the Town may inspect all facets of said System's placement, construction, modification and maintenance.
2. Any inspections required by the Town of Cortlandville Building Department that are beyond its scope or ability shall be at the expense of the Solar Energy Applicant.

K. Abandonment and Decommissioning

1. At the time of submittal of the application for a Conditional Permit for a Ground-Mounted Large-Scale Solar Energy System, the Solar Energy Applicant shall submit and agree to the performance of a decommissioning plan that includes the removal of the Solar Energy System and all associated equipment, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, and gates. If such System becomes technologically obsolete or

ceases to perform its originally intended function for more than six (6) consecutive months, the Town may require its removal in accordance with the decommissioning plan. The Town shall provide the Solar Energy System Owner thirty (30) days prior written notice of a request for decommissioning. Upon removal of a Ground-Mounted Large-Scale Solar Energy System, the land shall be restored to its previous condition, including but not limited to the seeding and sodding, as appropriate depending upon the season of the work, of exposed soils.

2. At the time of obtaining a building permit, the Solar Energy Applicant may be required to provide a financial security bond or other form of financial security acceptable to the Town for removal of the Ground-Mounted Large-Scale Solar Energy System and property restoration, with the Town of Cortlandville as the obligee, in an amount approved by the Town Board (the amount to restore the site to its pre-construction or negotiated condition). Upon any amendment of the Conditional Permit, the Town Board may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the Ground-Mounted Large-Scale Solar Energy System and property restoration. If the Ground-Mounted Large-Scale Solar Energy System is not decommissioned after being considered abandoned, the Town may remove the system and restore the property and impose a lien on the property to recover these costs to the Town.
3. All other Solar Energy Systems shall be considered abandoned after 6 consecutive months without electrical energy or thermal energy generation and must be removed from the property. The Town Board may consider and grant, for good cause shown, an application for one extension not exceeding 24 months for Solar Energy Systems other than Ground-Mounted Large-Scale Solar Energy Systems.”

L. Permit Requirements

1. Before any construction or installation on any solar PV system shall commence, a building permit issued by town of Cortlandville shall be obtained to document compliance with this Ordinance.

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